

ILLINOIS POLLUTION CONTROL BOARD
March 4, 1999

IN THE MATTER OF:)
)
REGULATED RECHARGE AREA) R99-19
DESIGNATION, DURAND, WINNEBAGO) (Rulemaking - Water)
COUNTY)

ORDER OF THE BOARD (by G.T. Girard):

On February 1, 1999, the Board received a filing from the petitioner which we will construe as a motion to reconsider the Board's January 7, 1999 order. In the January 7, 1999 order, the Board dismissed the request from a citizen that the Board "establish" a regulated recharge area in the areas south of Durand, Winnebago County, Illinois. In the February 1, 1999 filing, the citizen states that he "believe[s] the Board may be in error" for dismissing the request because it was "submitted by an individual . . . , and not by the IEPA [Illinois Environmental Protection Agency]."

In ruling upon a motion for reconsideration, the Board is to consider factors including, but not limited to, error in the previous decision and facts in the record which are overlooked. 35 Ill. Adm. Code 101.246(d). In Citizens Against Regional Landfill v. County Board of Whiteside County (March 11, 1993), PCB 92-156, the Board stated that "[t]he intended purpose of a motion to reconsider is to bring to the court's attention newly-discovered evidence which was not available at the time of the hearing, changes in the law, or errors in the court's previous application of the existing law." Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 572 N.E.2d 1154 (1st Dist. 1991).

The petitioner asserts that the Board's decision may be in error because of a statement found in a September 1993 publication prepared for the Illinois Department of Energy and Natural Resources and the Illinois Environmental Protection Agency entitled *Groundwater Protection by Local Government*. At page 35 of that booklet there is a statement which reads: "The IEPA [Illinois Environmental Protection Agency] or any private party may petition to the PCB [Board] to establish a regulated recharge area for aquifers needing regional protection."

The Board agrees with petitioner that the language in the pamphlet asserts that "any private party" may petition the Board to establish a regulated recharge area. However, the Board notes that the pamphlet's statement does not reference any specific provision of Illinois law, case law, or Board decision as authority for that proposition. The Board looks only to the statute, case law, and prior opinions by the Board to determine who may propose the establishment of a regulated recharge area. The legislature, in Sections 17.2, 17.3, and 17.4 of the Environmental Protection Act (Act) (415 ILCS 5/17.2, 17.3, and 17.4 (1996)), establishes the procedures for designation of a regulated recharge area. Reading those sections together, the Board finds that the Illinois legislature crafted a procedure to be followed for designating regulated recharge areas in the State. That procedure included a provision that

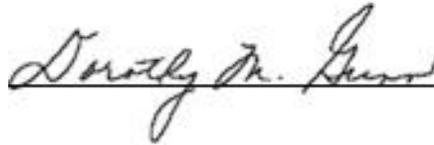
proposed rules to establish a regulated recharge area come to the Board from the Illinois Environmental Protection Agency. Section 17.3 of the Act. Therefore, the Board's January 7, 1999 order was not in error, and the motion to reconsider is denied.

IT IS SO ORDERED.

Board Member M. McFawn dissented.

Board Member E.Z. Kezelis abstained.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of March 1999 by a vote of 5-1.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board